

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
ROBERT DEREK LURCH, JR.,	:	
	:	
Plaintiff,	:	
	:	22-CV-2324 (VSB)
-against-	:	
	:	
	:	<u>ORDER</u>
P.O. ERIC KIM, P.O. AMANDA PSAREAS,	:	
JOHN DOE Officers that assisted in detaining	:	
and transporting the Plaintiff, DR.	:	
JONATHAN HOWARD, K. CARTY,	:	
registered nurse, and JOHN DOE Officers that	:	
arrested Plaintiff on 40th and 8th Ave. on May	:	
9, 2021 around 7 PM to 7:45 PM,	:	
	:	
Defendants.	:	
	:	
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VERNON S. BRODERICK, United States District Judge:

I am in receipt of a letter filed by counsel to Defendants Eric Kim and Amanda Psareas (together, the “City Defendants”), dated March 14, 2024, requesting that I “order Plaintiff to show cause why his *in forma pauperis status* should not be revoked.” (Doc. 82 at 1.) In support of their request, the City Defendants point to four cases that purportedly count as “strikes” under the Prison Litigation Reform Act (“PLRA”), 42 U.S.C. § 1997 *et seq.*:


- (1) *Lurch v. N.Y.C. Dep’t of Corrections et al.*, No. 16-cv-03835 (S.D.N.Y.) (“Strike One”);
 - (2) *Lurch, Jr. v. Fayetteville Police Dep’t*, 16-CT-3133 (E.D.N.C.) (“Strike Two”);
 - (3) *Lurch, Jr. v. City of New York, et. al.*, 18-CV-2379 (S.D.N.Y.) (“Strike Three”); and
 - (4) *Lurch, Jr. v. NYSDOCCS, et al.*, No. 20-CV-3430 (S.D.N.Y.) (“Strike Four”).
- (*Id.* at 2–3.)

Also on March 14, 2024, the Second Circuit issued a decision in *Cotton v. Noeth*, Nos. 20-1644-pr, 20-2710-pr, 2024 WL 1100314 (2d Cir. Mar. 14, 2024), addressing whether a dismissal pursuant to *Heck v. Humphrey*, 512 U.S. 477 (1994), constitutes a PLRA strike for failure to state a claim. Because Strikes Two and Three appear to be dismissals under *Heck*, it is hereby

ORDERED that the City Defendants shall file a supplemental letter, by April 10, 2024, addressing *Cotton*'s impact on Strikes Two and Three.

SO ORDERED.

Dated: March 20, 2024
New York, New York


VERNON S. BRODERICK
United States District Judge